

responsibilities resulting from the acquisition of the land in trust status.<sup>42</sup>

One of the June 1995 amendments specifically provided that as the distance from the reservation increases, “greater scrutiny” be given to the “tribe’s justification of anticipated benefits from the acquisition” in trust, and “greater weight” be given to the acquisition’s potential impacts on the regulatory and taxing jurisdiction of the state and local governments.<sup>43</sup>

IRA governs acquisitions of land to be held in trust regardless of whether or not the purpose of the acquisition is to conduct casino-style gaming. Where gaming is the purpose of the acquisition, however, the tribe’s request also implicates the Indian Gaming Regulatory Act of 1988.

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<sup>42</sup>25 C.F.R. § 151.10 (1994).

<sup>43</sup>25 C.F.R. § 151.11(b) (1995). Interior has made at least two prior unsuccessful attempts to provide some guidance, by published policy and regulation, for the acquisition of off-reservation land, including acquisitions for gaming purposes. In February 1986 – prior to the enactment of IGRA in 1988 – the Department published in the Federal Register a “Notice of Policy Decision” in which it stated that it would be “the policy of the Department of the Interior to decline to accept off-reservation lands in trust for the purpose of establishing bingo or other gaming enterprises.” 51 F.R. 5993 (Feb. 19, 1986). Following the announcement of this policy, in June 1987 the Department proposed a rule that “would prohibit the acquisition in trust status of lands located outside the boundaries of Indian reservations for individual Indians or Indian tribes if the purpose of the acquisition is to establish a bingo or other gaming enterprise.” 52 F.R. 23560 (June 23, 1987). In January 1988, after receiving comments “overwhelmingly in opposition to the rule,” the Department withdrew the proposed rule, noting that “in unique circumstances, a bingo enterprise, even though established on trust land outside the reservation boundaries, may be essential to the economic well being [sic] of a tribe which has a very limited natural or financial resource base.” 53 F.R. 1797 (Jan. 22, 1988).